

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

\*\*\*\*\*

UNITED STATES OF AMERICA

Case No. 5:15-CR-247 (DNH)

v.

CORNELL B. WEATHERS,

GOVERNMENT'S SENTENCING  
MEMORANDUM

Defendant.

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The United States of America, by and through its counsel of record, the United States Attorney for the Northern District of New York, hereby files its sentencing memorandum.

**I**  
**INTRODUCTION**

On April 27, 2016, the defendant pled guilty to counts 1, 2, 3, 4, and 6 of six-count Indictment 15-CR-247. Count 1 charges on or about April 9, 2015, in Oneida County in the Northern District of New York, the defendant distributed a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1). That violation involved a mixture and substance containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 841(b)(1)(C).

Count 2 charges on or about April 9, 2015, in Oneida County in the Northern District of New York, the defendant distributed a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1). That violation involved a mixture and substance containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 841(b)(1)(C).

Count 3 charges on or about April 10, 2015, in Oneida County in the Northern District of New York, the defendant possessed with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1). That violation involved a mixture and substance containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 841(b)(1)(C).

Count 4 charges on or about April 10, 2015, in Oneida County in the Northern District of New York, the defendant possessed with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1). That violation involved a mixture and substance containing a detectable amount of cocaine base (crack), in violation of Title 21, United States Code, Section 841(b)(1)(C).

Count 6 charges on or about April 10, 2015, in the Northern District of New York, the defendant, in furtherance of a drug trafficking crime for which he could be prosecuted in a court of the United States, that is distribution and possession with intent to distribute a controlled substance, that is cocaine, knowingly possessed in and affecting commerce a firearm, that is: a Taurus .44 caliber revolver. In violation of Title 18, United States Code, Section 924(c)(1)(A).

His sentencing is scheduled for August 31, 2016 in Utica, New York.

## **II APPLICABLE STATUTORY AND GUIDELINES PROVISIONS**

### **1. Statutory Maximum and Minimum Sentences**

On Counts 1-4, the maximum term of imprisonment is 30 years, pursuant to 21 U.S.C. § 841(b)(1)(C). The Court must impose a term of supervised release of at least six years up to life

on Counts 1-4, pursuant to 21 U.S.C. § 841(b)(1)(C). The maximum fine for Counts 1-4 is \$2,000,000, pursuant to 21 U.S.C. § 841(b)(1)(C).

On Count 6, the minimum term of imprisonment is five years to run consecutive to Counts 1-4 and the maximum term is life, pursuant to 18 U.S.C. § 924(c)(1)(A). On Count 6, the Court may impose a term of supervised release of not more than five years, pursuant to 18 U.S.C. § 3583(b)(1). The maximum fine on Count 6 is \$250,000, pursuant to 18 U.S.C. § 3571(b).

## **2. Guidelines Provisions**

The combined offense level is 13 and the criminal history category is III for Counts 1-4 for a guideline range of 18 to 24 months. The guideline sentence for Count 6 is 60 months, which is to be served consecutively to the sentence imposed on Counts 1-4. The guideline range for a term of supervised release on Counts 1-4 is six years to life. U.S.S.G. §5D1.2(c). On Count 6, the guideline range for a term of supervised release is not more than five years, pursuant to U.S.S.G. §5D1.2(a)(1). The fine range for this offense is from \$4,000 to \$8,000,000. U.S.S.G. §5E1.2(h)(1).

## **III GOVERNMENT'S SENTENCING RECOMMENDATION**

The Government respectfully requests that the Court sentence the defendant to a guideline sentence of 80 months, 6 years supervised release, forfeiture pursuant to the preliminary order of forfeiture and a special assessment of \$500. The sentence that the government recommends here is sufficient, but not greater than necessary to comply with the sentencing purposes in 18 U.S.C. § 3553(a)(2). This sentence reflects the seriousness of the

violation and provides adequate deterrence against future violations. In the ordinary case, the Commission's recommendation of a sentencing range will 'reflect a rough approximation of sentences that might achieve § 3553(a)'s objectives.' *Kimbrough v. United States*, 552 U.S. 85 (2007); *see, e.g., Gall v. United States*, 552 U.S. 38 (2007) (Guidelines are "the product of careful study based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions"). Moreover, within-guidelines sentences promote Congress's goal in enacting the Sentencing Reform Act – "to diminish unwarranted sentencing disparity." *Rita v. United States*, 551 U.S. 338, 354 (2007).

In conclusion, the sentence that the government recommends here is sufficient, but not greater than necessary to comply with the sentencing purposes in 18 U.S.C. § 3553(a)(2).<sup>1</sup>

DATED: August 8, 2016

Respectfully submitted,

RICHARD S. HARTUNIAN  
United States Attorney

By: /s/ Geoffrey J.L. Brown  
Geoffrey J.L. Brown  
Assistant United States Attorney  
Bar Roll No. 513495

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<sup>1</sup> The government reserves the right to respond to defense arguments raised for the first time after filing of this memorandum. Similarly, if the Court is considering a *sua sponte* departure from the applicable sentencing guidelines range on a ground not previously identified by the parties or in the Presentence Investigation Report, the parties are entitled to notice and an opportunity to respond. *See* Fed R. Crim. P. 32(i)(1)(c), 32 (h).

Further, the United States respectfully requests that the Court provide the parties with any *ex parte* communications received by the Court in connection with sentencing, with the exception of the confidential sentencing recommendations submitted by the United States Probation Office.

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UNITED STATES OF AMERICA,

Criminal Action No.

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 8, 2016, I electronically filed the **GOVERNMENT'S SENTENCING MEMORANDUM** with the Clerk of the District Court using the CM/ECF system, which sent notification of such to the following CM/ECF participant:

Lisa A. Peebles, Esq.

/s/ James E. Hendry  
James E. Hendry  
Legal Assistant